

REMARKS

Applicant, by the amendments presented above, has made a concerted effort to present claims which more clearly define over the prior art of record, and thus to place this case in condition for allowance. Claims 1-23 are pending.

Allowable Subject Matter

Applicant acknowledges with appreciation that claims 6, 14 and 15 would be allowable if rewritten in independent form, including all of the limitations of the base claim and any intervening claims.

Claim Objection

Claim 20 was objected to because of an informality. Applicant has amended claim 20 to cure the informality. Applicant has also amended claim 1 in the same manner to avoid an objection thereto. Reconsideration and withdrawal of the objection is requested.

Claim Rejections - 35 U.S.C. §102

Claims 1-5, 7 and 16-18 were rejected under 35 U.S.C. §102(b) as allegedly being anticipated by United States Patent No. 5,662,101 to Ogden. Reconsideration and withdrawal of the rejection is requested.

Independent claim 1 specifies “a sliding connection between said headgear and said patient interface”. Independent claim 16 specifies “engaging means for providing a sliding engagement with a means of securement to a user, and a compressive force on said abutting

means.” Independent claim 18 specifies “said patient interface adapted to sliding engage with said headgear.”

Ogden appears to disclose a nasal mask 3 where the head gear 13, 15, 17 engages the mask body 3 via rigid plate 9. The rigid plate 9 is loosely mounted to the mask shell in at least three locations and can move to compensate for any unequally applied forces. It is clear from the Figures and description of Ogden that the rigid plate 9 is preferably able to pivot about axis 63 or axis 65 in Figure 2 by virtue that the detents abut against the rear end walls of the channels. There is no disclosure in Ogden of sliding of either the headgear 13, 15, 17, the rigid plate 9 or the mask body 3 with relation to each other as required by independent claims 1, 16 and 18. Moreover, Applicant submits that it is not apparent as to how any sliding action could occur. Accordingly, Applicant submits that Ogden does not include the headgear sliding with respect to the patient interface as specified in independent claims 1, 16 and 18. Therefore, Applicant submits that Ogden does not anticipate, and further does not render obvious, the invention claimed by independent claims 1, 16 and 18. Reconsideration and allowance of claims 1, 16 and 18 is respectfully requested.

Claims 2-5, 7 and 17 are dependent on one of claims 1 and 16, which Applicant submits are allowable over Ogden. Therefore, Applicant submits that claims 2-5, 7 and 17 are allowable. Reconsideration and allowance of claims 2-5, 7 and 16 is requested.

Claims 20-23 were rejected under 35 U.S.C. §102(b) as allegedly being anticipated by United States Patent No. 3,079,917 to Pate. Reconsideration and withdrawal of the rejection is requested.

Independent claim 20 specifies “headgear including at least a partial loop adapted to pass across the face of said user”.

Pate does not disclose a partial loop but merely two straps (suspension means 12) that are wound on a spool that do not connect and as such do not form a loop. In Col. 4, lines 29-43 and 74-75, the suspension means 12 is described as being assembled on a spool 31, such that the spool 31 rotates to wind up or shorten suspension means 12. The mechanism of suspension means 12 and the partial loop of the present invention are vastly different, and Applicant submits that the partial loop as claimed is novel over Pate. Therefore, Applicant submits that Pate does not anticipate, and further does not render obvious, the invention claimed by independent claim 20. Reconsideration and allowance of claim 20 is respectfully requested.

Claims 22 and 23 are dependent on claim 20, which Applicant submit is allowable over Pate. Therefore, Applicant submits that claims 22 and 23 are allowable. Reconsideration and allowance of claims 22 and 23 is requested.

Claim Rejections - 35 U.S.C. §103

Claims 8-13 were rejected under 35 U.S.C. §103 as allegedly being unpatentable over Ogden. Reconsideration and withdrawal of the rejection is requested.

Claims 8-13 are dependent on claim 1, which Applicant submit is allowable. Therefore, Applicant submits that claims 8-13 are allowable. Reconsideration and allowance of claims 8-13 is requested.

In addition, Applicant submits that whether the headgear in Ogden is made from flexible material and or having elastic properties is irrelevant because the headgear does not slide with respect to the mask when in place on a user. Applicant submits that the strap which is part of the headgear cannot be defined as a sliding connection. The straps are looped through openings in the rigid plate and fasten back on the themselves by hook and loop

materials on the straps themselves. There is no sliding of the straps with respect to the mask body. Applicant notes that the openings are slightly larger than the width of the straps, but this does not in itself suggest any sliding especially considering that the straps are disclosed as elastic or flexible and will be under tension.

Applicant submits that the flexible elastic material of Ogden cannot be concluded to be polyacetal as is specified in claim 13. Polyacetal is not generally understood to have elastic properties in its most common forms. Accordingly, Applicant submits that Ogden does not suggest using polyacetal as is specified in claim 13. Therefore, reconsideration and allowance of claim 13 is requested.

Claim 19 was rejected under 35 U.S.C. §103 as allegedly being unpatentable over Ogden in view of United States Patent No. 5,537,997 to Mechlenburg. Claim 19 is dependent on claim 18, which Applicant submits is allowable. Therefore, Applicant submits that claim 19 is allowable. Reconsideration and allowance of claim 19 is requested.

Information Disclosure Statement

The initialed form indicating that the Information Disclosure Statement filed on August 22, 2003 with the patent application was considered was not returned to with the Office Action. Applicant encloses a copy of the Information Disclosure Statement filed on August 22, 2003 (without references). In addition, enclosed is a copy of the return postcard indicating that the Information Disclosure Statement filed on August 22, 2003 with the patent application was received with all six (6) references. Therefore, consideration of same is requested and return of the initialed form is requested. If a fee is due for consideration of the

Information Disclosure Statement filed on August 22, 2003, the Commissioner is authorized to charge Deposit Account No. 20-1495.

In addition, Applicant notes that the Examiner contends that the foreign references in the Information Disclosure Statement filed on November 25, 2003 were not received.

According to Applicant's file, the foreign references were submitted. Applicant encloses a copy of Information Disclosure Statement filed on November 25, 2003 and another copy of the *foreign* references for the Examiner's convenience. In addition, enclosed is a copy of the return postcard indicating that the Information Disclosure Statement filed on November 25, 2003 was received with all twenty-three (23) references by the Patent Office. Therefore, consideration of same is requested. In addition, Applicant requests confirmation that the cited published patent applications were considered by the Examiner. Return of the initialed form is requested. If a fee is due for consideration of the foreign references in the Information Disclosure Statement filed on November 25, 2003, the Commissioner is authorized to charge Deposit Account No. 20-1495.

Finally, Applicant submitted a Supplemental Information Disclosure Statement on September 15, 2004. Consideration of same is requested. If a fee is due for consideration of the Information Disclosure Statement filed on September 15, 2004, the Commissioner is authorized to charge Deposit Account No. 20-1495.

Priority Claim

Applicant requests acknowledgment of the completion of the priority claim for this application in the next Office Action.

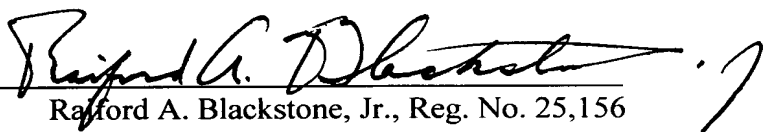
A Petition for a Two-Month Extension of Time is concurrently submitted herewith to extend the date for response up to and including November 29, 2004.

In view of the above Amendments and Remarks, Applicant respectfully submits that the claims of the application are allowable over the rejections of the Examiner. Should the Examiner have any questions regarding this Amendment, the Examiner is invited to contact one of the undersigned attorneys at (312) 704-1890.

Respectfully submitted,

Dated: Nov. 14, 2004

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